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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/005,825	11/08/2001	Christopher W. Gabrys	IG2215US	1028

7590

06.20.2003

J. Michael Neary
Neary Law Office
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EXAMINER

LE, DANG D

ART UNIT

PAPER NUMBER

2834

DATE MAILED: 06/20/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/005,825

Applicant(s)

GABRYS ET AL.

Examiner

Dang D Le

Art Unit

2834

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 11 April 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-16, 19 and 20 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 1-15, 19 and 20 is/are allowed.
- 6) ☒ Claim(s) 16 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 11/08/02 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☒ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 0402 6) ☐ Other: _____

DETAILED ACTION

Election/Restrictions

1. Applicant's canceling of claims 17 and 18 in Paper dated 4/11/03 is acknowledged. Because applicant did not distinctly and specifically point out the supposed errors in the restriction requirement, the election has been treated as an election without traverse (MPEP § 818.03(a)).

In addition, further consideration reveals that group I with claims 1-15 and group II with claims 16, 19 and 20 fall into the same invention. As a result, the examiner will examine claims 1-16, 19, and 20.

Priority

2. Applicant has not complied with one or more conditions for receiving the benefit of an earlier filing date under 35 U.S.C. 119(e) as follows:

3. An application in which the benefits of an earlier application are desired must contain a specific reference to the prior application(s) in the first sentence of the specification of in an application data sheet (37 CFR 1.78(a)(2) and (a)(5)). The specific reference to any prior nonprovisional application must include the relationship (i.e., continuation, divisional, or continuation-in-part) between the applications except when the reference is to a prior application of a CPA assigned the same application number. U.S. Provisional Application 60/246,962 listed in page 1 of the specification is inconsistent with PTO records. Page 7 shows U.S. Provisional Application 60/266,175. Please verify and correct accordingly.

Claim Rejections - 35 USC § 102

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

5. Claim 16 is rejected under 35 U.S.C. 102(b) as being anticipated by Theyse.

Regarding claim 16, Theyse shows a flywheel energy storage system (Figure 2), comprising:

- An energy storage flywheel (38) supported for rotation about a substantially vertical axis on a combination bearing system using a mechanical rolling element and upper and lower magnetic bearings;
- A motor and generator (111, 112) for accelerating and decelerating said flywheel for storing and retrieving energy;
- Said upper and lower magnetic bearings (39, 40) cooperate to provide stabile radial centering support, stabile tilt support and unstable axial support of said flywheel; and
- Said mechanical rolling element bearing (43) is located at one axial end of said flywheel and provides axial stabilization for said flywheel.

Allowable Subject Matter

6. Claims 1-15, 19 and 20 are allowed.

7. The following is a statement of reasons for the indication of allowable subject matter: the record of prior art does not show a flywheel energy storage system, comprising:

- An energy storage flywheel supported for rotation about a substantially vertical axis with a motor and generator for accelerating and decelerating said flywheel and a mechanical rolling element bearing located at only one axial end and providing axial and radial support for said flywheel while a magnetic bearing located at an axial end of said flywheel opposite said one end thereof and providing axial magnetic force and passive magnetic radial centering force to support said flywheel wherein said flywheel is connected to said mechanical rolling element bearing using a connecting element that imparts low radial stiffness as shown in claim 1, or
- An energy storage flywheel supported for rotation about a substantially vertical axis with a motor and generator for accelerating and decelerating said flywheel and a mechanical bearing located at one axial end of said flywheel to provide axial downward force to said flywheel and a magnetic bearing located at an axial end of said flywheel opposite said one end to provide axial upward force and passive magnetic radial centering force to said flywheel wherein said flywheel slides axially downward and disengages axial support from said mechanical bearing when said flywheel system is impacted vertically as shown in claim 19.

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8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Dang D Le whose telephone number is (703) 305-0156. The examiner can normally be reached on Monday through Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Nestor Ramirez can be reached on (703) 308-1371. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 872-9318 for regular communications and (703) 872-9319 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-1782.

June 17, 2003

A handwritten signature in black ink, appearing to read 'Dang D. Le', is written over the printed name.

DANG LE
PRIMARY EXAMINER